App. F. IX-4

1928. (Miyrai)

File No. 53-28

Serial Nos. 16-17

Previous References

Mirj 53-28-9-15
" " 1-8

Later References

Mirj 158-29-1-2
" -23-25 1-7
" 277-30-1-2
" 62-31-5-20

General and Revenue Secretariat.

Serial Nos. 2-

Part B for September 1929

SUBJECT

Suit for the cancellation of the lease of 3 Istalegatanur registered to the Sri Avani Matha.

DR 749 dated 30-9-29 To the ~~Mirj~~ D. C. Kolar

necessary further action to file a revision may be taken after the expiry of 3 months.

General and Revenue Secretariat | File No. 53 of 192

Serial No.

Forwarded with compliments to Legal Remembrancer for favour of opinion on the following points raised in the D.C's letter.

(1) Whether the notice in the forms accepted may be issued to the parties immediately?

(2) Whether necessary further action to file a suit may be taken after the expiry of 6 months?

(3) Whether the valuation of the subject matter of the suit and plaint fees noted are correct?

Reference is invited to para 5 portion marked A in the Advocate's letter in this connection

4-9-29

I find no good grounds to change my opinion. The proposed legislation by Govt is likely to prove very beneficial to the masses ultimately and it is worth taking the trouble.

The answers to (1) & (2) is yes.

The answer to (3) will be given after the receipt of the Copy of the plaint

26/9

Returned with Compts

A note may be sent to the D.C. - Ref. (1).

and a copy may be kept in connection with the appeal of the M. members.

Copy to M.C. 26/9

(D.C's letter Dy 20 9 29 Subsequent received is also placed on the file P.A-D no II with 2 enclosures of Mrs L. 53-28 on the subject) 26.9.29.

FINANCIAL SECRETARY 0053

NOTE—Contn. sheet

WD 021—GPB—30,000—21 8-29

General and Revenue Secretariat | File No. | of 192

Serial No.

We submit
AV
27.9.29. for Member
27/9

17 Do

Hon. Sir C. Kotwal
No 749 Dt 30 9-29
Forwards a post copy of Telegram dated 30th Sept requesting him to issue notices with the Forms proposed by him & necessary further action to file a suit. Fee taken after the expiry of 6 months
Do

The Insp Comm
No 750 Dt 30-9-29
Copy forwarded.

Note—Contn. Sheet

WD 01684—GPB—30,000—20-4-29

D. O. Ag-C 2134/84 28-24

OFFICE OF THE DEPUTY COMMISSIONER,
KOLAR DISTRICT.

Dated, Kolar, the 20th September 1924.

Dear Sir,

I send enclosed for the information of Government, a further letter addressed by me this day to the Muzrai Commissioner in the matter of the Yerrabattayyanur Village.

Yours sincerely,

To

B. Srinivasa Iyengar, Esq., B.A., B.L.,
Financial Secretary to Government of Mysore,
Bangalore.

20th October 29.

A. V.Ramanathan, Esq., B.A.,

A. K. Syed Taj Peeran, Esq., B.A.,
Muzrai

In continuation of my letter No:A.2.C.2134/28-29 of date, I have the honor to state that the old and new lessees appeared before me subsequently this day on receipt of intimatio to them of the Government order ~~to them~~ by endorsement declining to confirm the new lease. At the request of the new lessee, I have returned to him the registered deed produced by him and the Savings Bank Pass Book which he had deposited as security of one year's rental.

2. The old lessee has stated in the application that he has not handed over the possession to the new lessee. I send the application and the receipt for return of the Pass Book and the lease deed, with a shara by the new lessee that he has no further connection or claim on the Mutt or the Village, in original, for your reference and kind return.

I have the honor to be,
S i r,
Your most obedient servant,

Sd. M. V. Ramanathan,
Deputy Commissioner,
Kolar District.

"Copy"

Deputy Commissioner,
Kolar District.

Immediate

D. O. Az- C 2134 / 28-29 Encl 5.

OFFICE OF THE DEPUTY COMMISSIONER,
KOLAR DISTRICT.

Dated, Kolar, the 24th...September.....*19* 29.

FINANCIAL SECRETARY 21 SEP. 1929 3224

SECRETARIAT 21

19 498

Dear Sir,

With reference to your No:485/Huz.53-28-15 dated 28th August 1929, regarding the filing of a suit to cancel the lease of Errabyatanur Village endowed to the Avani Mutt, I enclose herein, a copy of my letter to the Huzrai Commissioner, reporting the action taken. The draft notices proposed to be issued to the lessee and mortgagees may kindly be approved and sent to me immediately as they have to be got served well in time before the 30th instant.

Today

Yours sincerely,

To

B. SRINIVASA IYENGAR, ESQ., B.A., B.L.,
Financial Secretary to Government of Mysore.
Bangalore.

In all future correspondence please quote this
No.....
Encls.

OFFICE OF THE DEPUTY COMMISSIONER,
KOLAR DISTRICT.

Dated, Kolar, the 29th September 1929.

FROM

A. V. RAMANATHAN, ESQ., B.A.,
Deputy Commissioner,
Kolar District.

To

A. K. Syed Taj Peeran, Esq., B.L.,
Muzrai Commissioner in Mysore, Bangalore.

SUBJECT:- AVANI DUTT P OPERTIES.

SIR,

In continuation of my letter No:A.1.C.2134/28-29 dated 29th August 1929, I have the honor to state that in pursuance of instructions conveyed by the Financial Secretary to Government in his letter No:486/Muz:53-28-25 dated 28th August 1929, regarding the filing of a suit to set aside the permanent lease of Errabyatanur village endowed to the Avani Dutt, I deputed Mr. K. Guru Dutt, Sub Division Officer, Kolar, to proceed to Chittoor and place the matter in the hands of Mr. C. Venkataramana Iyer, a leading Advocate there. He went to Chittoor on the 15th instant and explained matters to him in detail. A copy of his D.O. report dated the 19th instant is enclosed for information, along with its enclosures.

2. Before filing a suit, six months' notice has to be given to the lessee under Sec.106 of the Transfer of Property Act. In this case the notice has to be served on the lessee before the 30th of this month, asthe year of tenancy expires on the 30th March 1930. If the notice is not served in time, matters will be delayed for a year and a half from now. Draft notices enclosed may therefore be kindly got approved with any modifications that may be deemed necessary and returned to me immediately.

3. Before issuing notices to mortgagees it is essential to obtain authentic particulars from the Sub Registrar of Kuppam and local enquiry as suggested by theAdvocate. In view of the urgency, I am sending a clerk of my office to Kuppam to get the information. The cost will be about Rs.20/- for the encumbrance certificate, in addition to the travelling allowance of the official. I request you to sanction this expenditure as well/the

deputation of the official.

4. Court fee stamp for filing the suit will come to about Rs.1,200/-. An idea of other costs will be found in para 3 of Mr. Guru Dutt's letter.

5. As the matter is emergent, I have sent a copy of this letter and its enclosures to the Financial Secretary to Government. I request that orders may kindly be communicated to me urgently to enable me to take further action in time.

6. I request also that sanction of Government may be kindly obtained for the journey to Chittoor and back performed by Mr.Guru Dutt, on the 15th instant, under my orders.

I have the honor to be,
S i r,
Your most obedient servant,

Sd. A. V. Ramanatan,
Deputy Commissioner,
Kolar District.

" Copy "

Deputy Commissioner,
Kolar District.

Confidential / Immediate
Sub Division Officer, [illegible]
Commissioner, [illegible]

I beg to report that in pursuance of [illegible] proceeded to Chittoor on the 10th [illegible] Venkataramana Iyer, Advocate regarding [illegible] the lessee of Errabyatanur village [illegible] explained all the facts to him in detail and also [illegible] of the lease with him.

2. He was of opinion that the arrangement [illegible] negotiation was legally quite safe and in every way advantageous to the institution. If however it was thought necessary to file a suit it is requisite that [illegible] issued to the lessee, since by accepting annual rent from him after the demise of the late Swami we had recognised him as a tenant from year to year. This notice under section 106 of the Transfer of Property Act is to have effect at the close of a year of tenancy: in this case Phalguna Bahula Amavasya i.e., 28th March 1930. So it has to be served immediately. He was of opinion that a similar notice has to be served on the mortgagees although in their case no period has been prescribed. For this purpose an encumbrance certificate from 1890 onwards has to be obtained from the Sub Registrar of Kuppam, and it has also to be ascertained who are the actually surviving persons in possession, by local enquiry.

3. Since the mortgagees have to be made defendants in the suit its value for Court fee purposes will be a little more than Rs.10,000/- and the fee will be nearly 1,200/-. The cost of getting encumbrance certificate will be about Rs.20/-. Besides these immediate expenses there will be costs of conducting the suit to be settled with the Advocate. Incidental liabilities will perhaps be cost of repairs to the tank as required by the Railway Authorities, to be met by the Mutt to start with.

4. Mr. Venkataramana Iyer wanted me to send him copies of the old and new Muzrai Regulations and information on the point

whether the Swami who granted the lease was the predecessor of the present Swami, or his predecessor's predecessor. I wrote to him both and recieved a reply from him today enclosing draft notices for your signature. They are herein enclosed.

4. In case it is finally decided to embark on litigation, I beg to suggest that Clerk Lakshmana Rao of the District Office may be sent to Kuppam immediately with requisite amount to get the encumbrance certificate and other information regarding the mortgagees.

5. I shall explain any other points in person.

"Copy"

Deputy Commissioner,
Kolar District

C. VENKATARAMANA IYER, B.A., B.L.,
Advocate.

Chittoor,
17- 9- 1929.

RE: LEASE DEED DATED 10-3-1890 EXECUTED BY SRI
VIDYARANYA SWAMI.

Dear Sir,

1. The case reported in Vidya Viruthi Theertha Swami Vs. Balasami Iyer (44 Mad.831 - 41 M.L.J.)34 P.C. makes an authoratative pronouncement on the subject. It was also a case of a lease granted by the predecessor's predecessor. No question of limitation would arise.

2. That the granting of a permanent lease is beyond the powers of a Trustee is beyond doubt.

3. The observations of their Lordships in 23 M.L.J. 260, that when a permanent lease is found invalid, it is not open to courts to presume tenancy from year to year, can no longer be considered good law. In fact 23 M.271 and 37 Cal.885 P.C. relied on in 23 M.L.J. 260 are declared to be not good law in view of the decision in 44 M.831 (Vide 23.L.W657). According to Section 106 T.P.A., the lessee will be deemed to be a tenant from year to year and it is necessary that a six months' notice expiring with the year of tenancy should be given. Under the terms of the lease deed dated 10-3-1890 the year of tenancy expires by the end of Palguna month (30-3-1930). I am therefore of opinion that a notice, a draft of which is enclosed, should at once be given to the lessee's son. Similar notices may also be given to the mortgagees in possession.

4. If the draft notices are approved and sent back to me, with the names of mortgagees, I shall send them by registered post. I would however suggest, to ensure service within time, that you may also cause notices signed by the Deputy Commissioner served directly, to the parties making such alterations in the notices as may be necessary in view of the fact that the Deputy Commissioner signs the same.

5. As I told you in person, the proposed new lease for a definite term to Krishnaiya Chetty to which Ramakrishna Chetti also consents, is the best arrangement under the circumstances,

especially as he appears to take upon himself all the risk of the mortgages and as he also undertakes all the expenses of repairing the tank at a cost of Rs.2,000/-.

Yours sincerely,

Sd. C. Venkataramana Iyer,

To

K. G. Dutt, Esq.,
Sub Divisional Officer, Kolar.

****

P.S.

I received the book containing the Regulations sent by you. I shall return the same after perusal.

Intd. C.V.

" Copy "

Deputy Commissioner,
Kolar District.

From

C. VENKATARAMANA IYER, ESQ., B.A., B.L.,
Advocate, Chittoor.

To

I learn from my client Mr.R.Ry. A. V. Ramanathan Avl. , Deputy Commissioner, Kolar District, in whom the Estate -- of Sree Mutt is now vested under -- Regulation that the late Sri Vidyaranya Swami of Sree Mutt at , executed a lease deed dated 10-3-1890 purporting to be a permanent lease in favour of your father --- Govinda Chetti since deceased, for a very low rent, that the same is invalid and not binding on the trust, and that you have been holding only as a tenant from year to year.

I am therefore instructed to give you definite notice, which I hereby do, that you should quit and surrender possession completely by the end of next Palguna month i.e., by 30th March 1930, failing which legal proceedings will be taken for ejectment for damages and for such other reliefs as my client may be found entitled.

'Copy'
Deputy Commr
Kolar

From

C. VENKATARAMANA IYER, ESQ., B.A., B.L.,
Advocate, Chittoor.

To

I learn from my client M.R.Ry. A. V. Ramanathan Avl., Deputy Commissioner, Kolar District in whom the Estate of Sree Mutt is now vested under Regulation that the late Sree Vidyaranya Swami of Sree Mutt at Executed a lease deed dated 10-3-1890 purporting to be a permanent lease in favour of one Govinda Chetty for a very low rent, that the same is invalid and not binding on the trust and that you took a Usufructuary mortgage if some lands from by a deed dated

Under these circumstances, I am instructed to give you notice that the said permanent lease and your mortgage are in no manner valid or binding on the trust and that if you do not unconditionally surrender possession by the end of next Palguna i.e., 30th March 1930, legal proceedings will be taken against you for ejectment for damages and for such other reliefs as my client may be found entitled.

cc Copy
Dy Commissioner
Kolar

C. Rec 2 Sep 29

POSTS TELEGRAPHS.

NOTICE. This form must accompany any inquiry made respecting this Telegram.

Charges to pay. Rs. As.

Office Stamp. Sep 29

Handed in at (Office of Origin.) Karar | Date. 25/9 | Hour. 14 | Minute 10 | Service Instructions. rapt. | Words.

Recd. here at 0 14 H. 21 M.

TO

Wo. Hqrs Jodhpur No 25/9 Transfer order to Coc

Please refer c/34 dated instant proceeding immediately Errabetayanur village upcom

wd to L R for mtce on 29/9/29

N. B.—The name of the Sender, if telegraphed, is written after the text.

Karim Bux Bros., Printers Calcutta—1237 (B 206)—8-2-29—2,50,000 Bks

after Recs No 575

G.R.S. III—31

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

P.S. 2.57 pm

TELEGRAM No.

T. I 56.

Karim Bux Bros.—Printers—Cal.—462—5·5·25—75,00 000.

FIN. 25 SEP 3968.

Fol. R with enclosures

P.M.O

25/9

Imp Comm's letter No. 1706 dy 25.9.29 with the Fin. Secty's note thereon, is placed on the file)

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form

Routine Notes.

To be used only for notes, requisitions, etc., not intended for permanent record.]

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

M. C. 13]

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE,

Bangalore, ... 192

No. 1706 Cust'Ors
28-9.

URGENT.

FROM

~~The~~ Muzrai Commissioner in Mysore

26 SEP 1929

3980
~~To~~

E 549
Inv 578-28-11

SIR,

Referring to letter [illegible] 1929 from the Deputy Commissioner, [illegible] directly re the lease of [illegible] a [illegible] section of even date to that [illegible] from the same officer and to which [illegible] latter on the circumstances fully explained by the Deputy Commissioner in his first letter. In view of the fact that the Commissioner who is consulted [illegible] taken by the Deputy Commissioner in changing [illegible] resort to civil litigation by private negotiation which although very costly, is quite safe and may be approved, it is requested that the Government will be pleased to get the matter once more examined by the Legal Remembrancer before launching in this costly litigation in view of the slender resources of the [illegible].

To L. R with
Compliments & in Continuation to
Favour of Opinion. 25/9/29

I have the honor to be,

Sir,

Your most obedient servant,

Muzrai Commissioner.

Letter No. [illegible] 134/ -
Commissioner, [illegible]

In continuation of
honor to state that [illegible]
this day on receipt of the notifi
ment declaring to confirm the [illegible].
I have returned to him the original [illegible]
Bank Pass Book which [illegible] duly noted.

2. The old lessee has at the time
handed over the possession to
and the receipt for the same has been
shara by the new lessee that he has no [illegible]
matt or the village, an original, for [illegible]

"C o p y"

For Rural Commissioner.

Appendix F G—1

SUBJECT . . . . . .

... .

....

Section Immg

File No. 58-28

Serial No. 17

No. 749 750

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *192*

Date of issue. 30.9.29

Signed by . M. T. K. S. Dyas

To

.. The D C. Kolar

Sir,

According to correspondence ending with your D O no. A/2 C. 2136 dy 20th Sept. 29 re the filing of a suit for the Cancellation of the lease of Errabyatanur endowed to the Amani maris. I am directed to forward appended in the margin a post copy of telegram dated issued to you to day, and to request that notices in the forms

over

10,000—18-9-28

Deputy Commissioner
Kolar
your letter & enclosure.
Mahyatanur village
Notices in the forms
proposed may be issued
to parties immediately
Letter follows Financial
Secretary

Dyas
27/9/29

proposed by you, may
be issued to the parties
immediately, and that
necessary further action
to file a suit may be
taken after the expiry
of 6 months.

(2) The encls. are returned.

I have etc

Dy 27/2 for Secy

750
Encls: 53-28-17 dy 30 & 29

Copy to M-e am
for information with ref. to
Correspondence ending with his
letter no 1506 dy 25.9.29.

Mme,
25-9-29

B O.

27/2
Dy for Secy
hms